

IN THE UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

IN RE:	)	Chapter 11
	)	
	)	Case No. 17-33550
	)	
IGNITE RESTAURANT GROUP.,	)	
INC., <i>et al.</i> ,	)	
Debtors.	)	
	)	
	)	
	)	

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**AMI MILLER'S MOTION FOR RELIEF FROM AUTOMATIC STAY**

**THIS IS A MOTION FOR RELIEF FROM THE AUTOMATIC STAY. IF IT IS GRANTED, THE MOVANT MAY ACT OUTSIDE OF THE BANKRUPTCY PROCESS. IF YOU DO NOT WANT THE STAY LIFTED, IMMEDIATELY CONTACT THE MOVING PARTY TO SETTLE. IF YOU CANNOT SETTLE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY AT LEAST SEVEN (7) DAYS BEFORE THE HEARING. IF YOU CANNOT SETTLE, YOU MUST ATTEND THE HEARING. EVIDENCE MAY BE OFFERED AT THE HEARING AND THE COURT MAY RULE.**

**REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.**

**NOTICE OF HEARING**

**THERE WILL BE A HEARING ON THIS MATTER ON NOVEMBER 6, 2020 AT 2:00 P.M. IN COURTROOM 400, U.S. FEDERAL BUILDING, 515 RUSK, HOUSTON, TEXAS 77002.**

AMI MILLER, Movant, files this Motion for Relief from Stay as to allow a certain personal injury lawsuit to proceed against IGNITE RESTAURANT GROUP., INC., Debtor, provided that any potential recovery is limited to any applicable insurance proceeds and in support thereof would respectfully show the Court the following:

### **JURISDICTION AND VENUE**

1. This Court has jurisdiction over the motion for relief from stay pursuant to 28 U.S.C. §§ 157 and §1334. This matter is a core proceeding pursuant to 28 U.S.C. §157(b)(2).
2. Venue in this Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409.
3. The basis for relief requested herein is 11 U.S.C.S. §362 Rule 4001-1(a).

### **BACKGROUND**

4. The basis of this action is to allow Movant to proceed with a personal injury lawsuit that was filed on August 31, 2017 and that is currently pending in the 215<sup>th</sup> District Court of Harris County, Texas under the following style: Cause # 2017-57389; *AMI MILLER v. IGNITE RESTAURANT GROUP., INC. D/B/A JOE'S CRAB SHACK* (the "State Court Lawsuit"). AMI MILLER was severely injured on October 18, 2015 when she visited a Joe's Crab Shack restaurant and ordered food. As AMI MILLER took a bite of her food, she bit onto small rocks causing her tooth to crack. Joe's Crab Shack was owned and operated by IGNITE RESTAURANT GROUP., INC. Therein, Ms. Miller asserts a personal injury claim arising from an alleged injury in October 2015 while at Defendant Debtor's premises. A copy of the last live petition in the State Court Lawsuit is attached hereto as **Exhibit A**.

5. Movant believes IGNITE RESTAURANT GROUP., INC. has liability insurance that covers the claims made by Movant in the state court personal injury litigation. Movant seeks to modify the automatic stay for the limited purpose of continuing suit against Debtor to adjudicate Debtor's liability in connection with the injuries and damages sustained by Movant.

### **RELIEF REQUESTED**

6. By this motion, pursuant to section 362(d) of the Bankruptcy Code, Movant respectfully seeks entry of an order, substantially in the form attached hereto as **Exhibit B**, modifying the

automatic stay to allow the State Court Lawsuit to proceed; provided that any recovery or settlement in the State Court Lawsuit is limited to amounts recoverable under the Insurance Policies. Given that the insurance companies are providing the defense in the State Court Lawsuit, there is little, if any, burden on, or harm to, the Debtor by granting this relief.

**WHEREFORE**, Movant respectfully requests that the Court enter an order, substantially in the form attached hereto as **Exhibit B**, modifying the automatic stay to allow the State Court Lawsuit to proceed against Debtor, IGNITE RESTAURANT GROUP., INC., and that the Movant may have such other and further relief to which Movant may show herself justly entitled.

Respectfully submitted,

/s/ Abraham Carreon  
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Jonathan E. Bleyer  
State Bar No.: 2496379  
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ATTORNEYS-IN-CHARGE  
FOR MOVANTS

**CERTIFICATE OF CONFERENCE**

Counsel for Movant, Ami Miller, has attempted to conduct a conference through email with Counsel for Defendant Debtor Ignite Restaurant Group, Inc. However, the listed representatives, stated that they do not represent Defendant Debtor or they are no longer associated with the matter. Counsel for Movant received an email from Shane Gibson Ramsey, a listed representative, on September 23, 2020 at 11:48 AM that he does not represent Defendant Debtor. Counsel for Movant received an email from Matthew Scott Okin, a listed representative, on September 29, 2020 at 9:42 AM stating that he does not represent Defendant Debtor. Counsel for Movant received an email from Edward L. Ripley, a listed representative, on May 28, 2020 at 5:20 PM stating that he is no longer involved in the representation of Defendant Debtor. Counsel for Movant, Ami Miller, has attempted to conduct a conference but has been unable to do so.

**CERTIFICATE OF SERVICE**

I hereby certify that pursuant to Rule 5 of the Federal Rules of Civil Procedure on this the 6th day of October 2020, a true and correct copy of the foregoing instrument was served upon all counsel of record listed in the mailing matrix attached as Exhibit “C” hereto and hereby incorporated by reference.

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/s/ Abraham Carreon  
Abraham (“Abe”) Carreon

## **EXHIBIT “A”**

## **EXHIBIT “B”**

## **EXHIBIT “C”**